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12 HOUSER BROS. CO. dba RANCHO DEL
13 REY MOBILE HOME ESTATES

14
15 UNITED STATES BANKRUPTCY COURT

16
17 CENTRAL DISTRICT OF CALIFORNIA – SANTA ANA DIVISION

18
19 In re
20 JAMIE LYNN GALLIAN,
21 Debtor.

22 Case No. 8:21-bk-11710-SC

23 Chapter 7

24
25 NOTICE OF JOINDER IN TRUSTEE'S
26 APPLICATION TO EMPLOY REAL ESTATE
27 BROKER COLDWELL BANKER REALTY
28 AND AGENTS WILLIAM FRIEDMAN AND
GREG BINGHAM PURSUANT TO 11 U.S.C.
§§ 327 AND 328

29
30 [16222 Monterey Lane, Space #376, Huntington
31 Beach, CA 92649]

32
33 Date: July 30, 2024
34 Time: 11:00 a.m.
35 Place: Courtroom 5C
411 W. 4th Street
36 Santa Ana, California 92701

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38 HOUSER BROS. CO., a California limited partnership dba RANCHO DEL REY
39 MOBILE HOME ESTATES (“Houser Bros.”), submits this joinder (“Joinder”) to the
40 Application to Employ Real Estate Broker Coldwell Banker Realty and Agents William
41 Friedman and Greg Bingham Pursuant to 11 U.S.C. §§ 327 and 328 (“Broker Application”),
42 filed by Jeffrey I. Golden, in his capacity as the duly appointed and acting Chapter 7 Trustee

1 (“Trustee,”) for the bankruptcy estate (“Estate”) of Jamie Lynn Gallian (“Debtor”), on July 1,
2 2024, as Dk. No. 395.

3 Houser Bros. has reviewed the Broker Application (Dk. No. 395), the Debtor’s
4 Oppositions (Dk. Nos. 401, 402, and 403), and the Trustee’s Reply (Dk. No. 408), and hereby
5 joins in the Trustee’s Broker Application as follows:

6 1. On the petition date, legal title to the Debtor’s manufactured home was registered
7 in J-Sandcastle Co. LLC. *See Order Regarding “Order Reversing the Order of the Bankruptcy*
8 *Court and Remanding for Further Proceedings” entered by the District Court on November 1,*
9 *2023, entered on May 15, 2024, as Dk. No. 393, p. 6 of 7, ll. 13-19 (“Final Exemption Order”).*

10 2. Despite title being held by J-Sandcastle, “by her continuous possession and use
11 of the Property as her principal residence since November 2018, Debtor held a sufficient
12 equitable interest in the Property to claim an automatic homestead exemption under Cal. Civ.
13 Proc. Code § 704.720(a).” *Id.*, ll. 2-6.

14 3. Exemptions, however, are junior in priority to consensual liens. *See Cal. Code*
15 *Civ. P. § 704.850(a) [“The levying officer shall distribute the proceeds of sale of a homestead in*
16 *the following order: (1) To the discharge of all liens and encumbrances, if any, on the property.*
17 *(2) To the judgment debtor in the amount of any applicable exemption of proceeds pursuant to*
18 *Section 704.720.”].*

19 4. The Court has already found that J-Pad LLC (“J-Pad”) held a lien to secure the
20 principal balance of a loan in the amount of \$225,000. “As noted previously, J-Pad was the
21 holder of a \$22[5],000 promissory note. Defendant herself executed the promissory note on J-
22 Pad’s behalf, knowing full well of the asset. It is this Court’s view that \$225,000 is a significant
23 amount of money, and Defendant’s failure to properly schedule her interest in J-Pad, the note
24 and lienholder of a significant asset, is a material, false oath made knowingly and fraudulently.
25 So too was Defendant’s failure to schedule a value for J-Pad, who held a significant asset in the
26 form of the aforementioned note and lien on the mobile home. The foregoing, coupled with the
27 evidence presented by Plaintiff of Defendant’s other glaring omissions and false oaths, are
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1 sufficient to demonstrate that Plaintiff is entitled to judgment against Defendant on its
2 § 727(a)(4) cause of action.” See, Dk. No. 81 in Adv. Case No. 8:21-ap-01097-SC, p. 16 of 19,
3 ll. 3-13 (footnote omitted).

4 5. The J-Pad lien has been avoided and preserved by the Trustee. “The transfer to
5 the Defendant [J-Pad] of a lien on and security interest in the manufactured home located at
6 16222 Monterey Lane, Space #376, Huntington Beach, CA 92649, Decal # LBM1081, Serial
7 # AC7V710394GA, AC7V710394GB (the ‘Property’) reflected by the secured promissory note
8 and security agreement between J-Sandcastle Co., LLC and the Defendant [J-Pad] dated
9 November 16, 2018 and lien on the Property in the amount of \$225,000 in favor of the
10 Defendant [J-Pad] are avoided and preserved for the benefit of the Debtor’s estate in the name
11 of Jeffrey I. Golden, Chapter 7 Trustee for the bankruptcy estate of Jamie Lynn Gallian.” See
12 Dk. No. 79 in Adv. Case No. 8:23-ap-01064-SC, p. 2 of 3, ll. 6-12.

13 6. “§ 551 does not exclude exempt property from preservation. An avoided interest
14 or lien encumbering exempt property is automatically preserved for the benefit of the estate
15 under § 551.” *Heintz v. Carey (In re Heintz)*, 198 B.R. 581, 586 (B.A.P. 9th Cir. 1996).

16 7. In summary, the Court has already found that the Debtor gave J-Pad a lien to
17 secure an obligation of \$225,000 and that the Trustee obtained judgment avoiding and
18 preserving the J-Pad lien.

19 8. Section 522(g) prohibits a debtor from claiming an exemption in property
20 recovered by a trustee after a debtor’s voluntary transfer. As such, the Debtor may not claim any
21 exemption in the amounts subject to the avoided and recovered liens.

22 9. A trustee may sell property to realize the benefit of avoided and recovered liens.
23 “[Section 522(g)], however, does not allow a debtor to exempt property subject to the trustee’s
24 preserved lien position, unless such preserved lien was otherwise avoidable under section 522.
25 Thus, generally, property that was voluntarily transferred by the debtor and recovered by the
26 trustee under section 550 and preserved under section 551 cannot be exempted.” 5 COLLIER ON
27 BANKRUPTCY P 551.02[2] (2024).

1 10. Houser Bros. thus respectfully requests that the Court overrule the Debtor's
2 Oppositions and enter an order granting the Trustee's application to employ a broker for the
3 purpose of selling the mobilehome and realizing the benefits of the avoided and preserved liens.
4

5 DATED: July 23, 2024

MARSHACK HAYS WOOD LLP

6
7 By: /s/ D. Edward Hays
8 D. EDWARD HAYS
9 BRADFORD N. BARNHARDT
10 Attorneys for Houser Bros. Co. dba Rancho
11 Del Rey Mobile Home Estates
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PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is: 870 Roosevelt, Irvine, CA 92620.

A true and correct copy of the foregoing document entitled: **NOTICE OF JOINDER IN TRUSTEE'S APPLICATION TO EMPLOY REAL ESTATE BROKER COLDWELL BANKER REALTY AND AGENTS WILLIAM FRIEDMAN AND GREG BINGHAM PURSUANT TO 11 U.S.C. §§ 327 AND 328** will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner stated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On **July 23, 2024**, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

Service information continued on attached page

2. SERVED BY UNITED STATES MAIL: On **July 23, 2024**, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

VIA REGULAR MAIL:

DEBTOR

JAMIE LYNN GALLIAN
16222 MONTEREY LN UNIT 376
HUNTINGTON BEACH, CA 92649

Service information continued on attached page

3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL: Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on **July 23, 2024**, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

VIA PERSONAL DELIVERY:

PRESIDING JUDGE'S COPY

HONORABLE SCOTT C. CLARKSON
UNITED STATES BANKRUPTCY COURT, CENTRAL DISTRICT OF CALIFORNIA
RONALD REAGAN FEDERAL BUILDING AND COURTHOUSE
411 WEST FOURTH STREET, SUITE 5130 / COURTROOM 5C
SANTA ANA, CA 92701-4593

Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

July 23, 2024

Layla Buchanan

Date

Printed Name

/s/ Layla Buchanan

Signature

1. **TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF):** CONTINUED:

- **ATTORNEY FOR CREDITOR AND PLAINTIFF HOUSER BROS. CO.:** Bradford Barnhardt
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- **U.S. TRUSTEE:** United States Trustee (SA) ustpregion16.sa.ecf@usdoj.gov

4879-0465-9015, v. 1